

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN SHEK,

No. C 11-00212 WHA

Plaintiff,

v.

**ORDER REGARDING PLAINTIFF'S
"RESPONSE TO JUDGE'S ORDER"**

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS,
REGION 32, and CALIFORNIA NURSES
ASSOCIATION C.H.E.U.,

Defendants.

Plaintiff has filed a "response to Judge's order granting defendant's [sic] motion to enlarge time for discovery and denying plaintiff's motion to compel initial disclosures (the ruling before plaintiff received defendants motions [sic]) see Exh A, motion to reconsider, hearing April 21, 2011 off calendar" (Dkt. No. 48). It is unclear whether this is a motion to reconsider the order regarding discovery, a motion to reconsider a prior ruling that took a motions hearings off calendar, or simply a response and not a motion to reconsider — given that plaintiff does not request reconsideration except in the title of the submission.


Plaintiff's submission implies that the order granting defendant's motion regarding discovery did so because plaintiff did not oppose it. Not so. That order rested in no way on that fact. It noted, on the other hand, that plaintiff failed to oppose defendants' *motions to dismiss*, which is a different matter. The order stated: "plaintiff failed to oppose defendants' motions and

1 we are waiting to see whether he will respond to the order to show cause [concerning the motions
2 to dismiss].”

3 In case plaintiff’s submission is in fact a motion to reconsider, pursuant to Civil Local
4 Rule 7-9, no party may notice a motion for reconsideration without first obtaining leave of Court
5 to file the motion. And even if leave were granted, plaintiff’s submission does not present a
6 material difference in fact or law from that which was presented previously, the emergence of
7 new material facts or a change of law since that time, or a manifest failure by the Court to
8 consider material facts or dispositive legal arguments. Therefore, even if construed as a motion
9 for leave or a motion for reconsideration, such motion is **DENIED**.

10 **IT IS SO ORDERED.**

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12 Dated: April 18, 2011.

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15 WILLIAM ALSUP
16 UNITED STATES DISTRICT JUDGE
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